

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AVALON HOLDINGS CORP., : 18cv7291 (DLC)
: 18cv8896 (DLC)
: Plaintiff, :
-v- : ORDER
: GUY GENTILE and MINTBROKER
INTERNATIONAL, LTD., :
: Defendants. :
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: NEW CONCEPT ENERGY, INC., :
: Plaintiff, :
-v- :
: GUY GENTILE and MINTBROKER
INTERNATIONAL, LTD., :
: Defendants. :
----- X

DENISE COTE, District Judge:

On July 8, 2024, plaintiff Avalon Holdings Corporation ("Avalon") filed a motion to compel defendant Gentile to respond to plaintiffs' post-judgment subpoenas. An Order of July 9 set a schedule for briefing on the motion, and a hearing was held on July 23. Gentile was not present at the hearing. At the hearing, counsel for Gentile, who is also counsel of record for Gentile's appeal to the Second Circuit in this case, indicated that he had not been in contact with Gentile since May 2024 at the latest and did not have information on how to effect service

on him. Defense counsel also stated that Gentile had testified in a case brought against him by the Securities and Exchange Commission in the Southern District of Florida. Counsel for Avalon made an oral application for a bench warrant and additional monetary sanctions. That application was denied, and plaintiff's counsel was granted permission to renew the motion to compel if there was a showing that all possible methods of contacting Gentile had been exhausted.

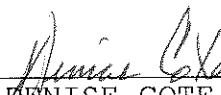
On August 14, 2024, Avalon filed a renewed application to compel Gentile to respond to plaintiff's post-judgment subpoenas and an application for a bench warrant for his civil arrest. A supporting memorandum indicates that service by publication was effected in the case against Gentile in the Southern District of Florida. Accordingly, it is hereby

ORDERED that the plaintiff shall propose an alternative method of service that complies with the requirements of due process and shall submit a proposed order authorizing such alternative service on Gentile pursuant to Fed. R. Civ. P. 4(f)(3) by August 23, 2024.

IT IS FURTHER ORDERED that, provided such proposed order is filed by August 23, any opposition to that proposed order for alternative service shall be submitted by August 28, 2024.

IT IS FURTHER ORDERED that any opposition to the August 14 motion for Gentile's civil arrest must be filed by September 13, 2024. Any reply shall be filed by September 20.

Dated: New York, New York
August 16, 2024


DENISE COTE

United States District Judge